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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,149	07/31/2001	Douglas J. Button	45784-70(P00009USU)	6418

7590 06/30/2004

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EXAMINER

NI, SUHAN

ART UNIT	PAPER NUMBER
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2643

14

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,149

Applicant(s)

BUTTON ET AL.

Examiner

Suhan Ni

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-54 and 65-69 is/are pending in the application.
- 4a) Of the above claim(s) 1-14, 55-64 and 70-78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 15-16, 22-23, 25, 28, 30-32, 38-44, 47-49, 52, 65-66 and 68 is/are rejected.
- 7) ☒ Claim(s) 17-21, 24, 26, 27, 29, 33-37, 45, 46, 50, 51, 53, 54, 67 and 69 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. This communication is responsive to the election filed 04/23/2004.
2. A provisional election was made without traverse to prosecute the invention of Group II, claims **15-54 and 65-69**. other Groups, claims 1-14, 55-64 and 70-78 are withdrawn from further consideration and **cancelled** by the applicant, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112, 2nd Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 45-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 45, it recites the limitation of “the rear side” and “the front side” in line 2. There are insufficient antecedent basis for this limitations in the claim.

In claim 46, it recites the limitation of “the rear side” in line 2 and “the front side” in line

3. There are insufficient antecedent basis for this limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2643

(e) The invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 15-16, 22-23, 25, 28, 30, 38-44, 47, 52 and 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Avers (U. S. Pat. - 6,064,745).

Regarding claims 15, 47 and 65, Avers discloses a phasing plug assembly, comprising: a first phasing plug (14); and a second phasing plug (16) positioned substantially adjacent to the first phasing plug (Fig. 3), wherein both said phasing plugs have a plurality of openings extending through both phasing plugs as claimed.

Regarding claims 16, 38-44 and 52, Avers further discloses the phasing plug assembly, wherein the first phasing plug has a rear side and a first intermediate side and the second phasing plug has a second intermediate side and a front side, the first intermediate side of the first phasing plug and the second intermediate side of the second phasing plug are positioned adjacent to one another as claimed (Fig. 3).

Regarding claims 22-23, Avers further discloses the phasing plug assembly, wherein the rear side of the first phasing plug is adapted to be positioned adjacent to a diaphragm (64) in a speaker assembly.

Regarding claims 25, 28 and 30, Avers further discloses the phasing plug assembly, wherein the distance between the plurality of openings is about 0.5 inches (Figs. 3-4) as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31-32, 48-49, 66 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Avers (U. S. Pat. - 6,064,745).

Regarding claims 31 and 66, Avers does not clearly teach that the first phasing plug is made of steel as claimed. Since Avers does clearly teach that the first phasing plug is manufactured through molding processing, and providing a suitable molding material for the molding processing is very well known in the art, it therefore would have been obvious to one skilled in the art at the time the invention was made to provide a suitable material, such as aluminum or steel for molding or casting the phasing plug.

Regarding claims 32, 49 and 68, Avers does not clearly teach that the second phasing plug is made of plastic as claimed. Since Avers does clearly teach that the first phasing plug is manufactured through molding processing, and providing a suitable molding material for the molding processing is very well known in the art, it therefore would have been obvious to one skilled in the art at the time the invention was made to provide a suitable material, such as plastic for molding or making the phasing plug.

Regarding claim 48, Avers does not clearly teach that the second phasing plug is made of steel as claimed. Since Avers does clearly teach that the first phasing plug is manufactured through molding processing, and providing a suitable molding material for the molding processing is very well known in the art, it therefore would have been obvious to one skilled in the art at the time the invention was made to provide a suitable material, such as aluminum or steel for molding or casting the phasing plug.

Allowable Subject Matter

6. Claims 17-21, 24, 26-27, 29, 33-37, 50-51, 53-54, 67 and 69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Suhan Ni** whose telephone number is **(703)-308-9322**, and the number for fax machine is **(703)-305-9508**. The examiner can normally be reached on Monday through Thursday from 9:00 am to 7:30 pm. If it is necessary, the examiner's supervisor, **Curtis Kuntz**, can be reached at **(703) 305-4708**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is **(703) 305-3900**.

SN

06/24/2003


SUHAN NI
PRIMARY EXAMINER